

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

United States of America

Document # 21

USCA NO. 08-2604-cr

SDNY NO. 07 cr 399

JUDGE: DLC

DATE: 6/20/08

-v-

James Ciccone

INDEX TO THE RECORD ON APPEAL

PREPARED BY (NAME) James Ciccone

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DISTRICT COURT DOCKET ENTRIES -----

DOCUMENTS

DOC#

Clerk's Certificate

See Attached List of Numbered Documents

Only Circled Documents Included

(☒) Original Record

(☐) Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A  
for the Second Circuit on the 20th Day of June, 2008.

**United States District Court for  
the Southern District of New York**

United States of America

-v-

James Ciccone

Date: June 20, 2008

U.S.C.A. # 08-2604-cr

U.S.D.C. # 07 cr 399

D.C. JUDGE: Denise L. Cote

**Clerk's Certificate**

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 Through 20, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

**Date Filed**

**Document Description**

#19 6/18/08

Motion Emergency Stay

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 20<sup>th</sup> Day of June In this year of our Lord, Two Thousand and Eight, and the Independence of the United States this 232<sup>nd</sup> year.

**J. Michael McMahon, Clerk**

By [Signature]  
Deputy Clerk

APPEAL, CLOSED, ECF

**U.S. District Court**  
**United States District Court for the Southern District of New York (Foley Square)**  
**CRIMINAL DOCKET FOR CASE #: 1:07-cr-00399-DLC-1**  
**Internal Use Only**

Case title: USA v. Ciccone

Date Filed: 05/09/2007

Date Terminated: 05/08/2008

Date Filed	#	Docket Text
05/09/2007	<u>1</u>	INDICTMENT FILED as to James Ciccone (1) count(s) 1, 2. (jm) (Entered: 05/10/2007)
05/09/2007		Case Designated ECF as to James Ciccone. (jm) (Entered: 05/10/2007)
05/23/2007	<u>3</u>	NOTICE OF CASE REASSIGNMENTS as to James Ciccone, to Judge Denise L. Cote. Judge Shirley Wohl Kram no longer assigned to the case. (laq) (Entered: 05/29/2007)
08/01/2007		Minute Entry for proceedings held before Judge Denise L. Cote :Initial Appearance as to James Ciccone held on 8/2/2007. Dft James Ciccone pres w/atty Gail Gray. AUSA Parvin Moyne pres. Crt rptpr pres pres. Dft Ciccone pleads not guilty as charged in 07cr399. Gov't to make all discovery to the defense by 8/17/2007. Any defense Motions due by 10/19/2007. Responses due by 10/26/2007. Trial date set for 12/3/07. T/E from 8/2/07 until 12/3/07. Bail cont'd as previously set.(Court Reporter Michael McDonald) (Entered: 08/08/2007)
08/01/2007		Minute Entry for proceedings held before Judge Henry B. Pitman :Arraignment (on Disposition Sheet) as to James Ciccone (1) on Counts 1 and 2, held on 8/1/2007. Dft James Ciccone pres w/atty Gail Gray (Retained). AUSA Parvin Moyne pres. Dft arrested 8/1/07 at 10:30 a.m., presentment at 8/1/07 at 4:40 p.m. Plea entered by James Ciccone (1) Counts 1 and 2 of Not Guilty. Bond information also included on Disposition Sheet (See Bond). (ja) (Entered: 08/15/2007)
08/01/2007	<u>4</u>	Appearance Bond Entered as to James Ciccone in amount of \$25,000.00 PRB, cosigned by one financially responsible person, travel restricted to SDNY, EDNY, and NDNY, and Georgia, on 24 hours notice to PSA. Surrender travel documents and no new applications. Regular pretrial supervision. Dft to be released upon following conditions: when dft executes bond. Remaining conditions to be met by 8/8/07. (ja) (Entered: 08/15/2007)
08/01/2007	<u>5</u>	ADVICE OF PENALTIES AND SANCTIONS as to James Ciccone. Defendant released. (ja) (Entered: 08/15/2007)
08/01/2007	<u>6</u>	NOTICE OF ATTORNEY APPEARANCE: Gail Gray appearing for James Ciccone. (ja) (Entered: 08/15/2007)
10/22/2007	<u>7</u>	ORDER as to James Ciccone. IT IS HEREBY ORDERED that any written Voir Dire requests, Requests to Charge or Trial Memorandum, should be filed by 11/19/2007 at 12:00PM. Two courtesy copies should be delivered to Chambers on the same day. IT IS FURTHER ORDERED that the final Pretrial Conference is set for 11/20/2007 at 03:00 PM in Courtroom 11B, 500 Pearl Street, New York, NY 10007 before Judge Denise L. Cote. The Individual Rules of Trial Practice in Criminal Cases are enclosed. SO ORDERED. (Signed by Judge Denise L. Cote on 10/22/07)(ja) (Entered: 10/22/2007)
11/28/2007	<u>8</u>	ENDORSED LETTER as to James Ciccone, addressed to Judge Cote, from Gail Gray, Atty for dft, dated 11/27/07, re: dft Ciccone is scheduled to appear tomorrow, 11/28/07 @ 2 p.m. for resolution, and also scheduled to appear on 12/3/07 for trial.... Accordingly, I respectfully request that the trial be adjourned, on consent, to 1/16/08 and also, I consent to the exclusion of time necessitated by this adjournment.... -- Judge endorsed: Trial is adjourned to January 14. Time is excluded to 1/14/08. Finding that exclusion is in the interest of justice and outweighs the interest of the public and dft in a speedy trial, the request is granted. 18 USC Sec 3161(h)(8)(A). (Signed by Judge Denise L. Cote on 11/28/07)(ja) (Entered: 11/29/2007)
01/08/2008		Minute Entry for proceedings held before Judge Denise L. Cote: Change of Plea Hearing as to James Ciccone held on 1/8/2008. Dft present w/atty Gail Gray. AUSA Parvin Moyne present. Court rptpr present. Dft pleads guilty to Count 1 of 07cr399. PSR ordered. (Brief due by 3/29/2008, Govt's Response due by 4/4/2008, Sentencing set for 4/11/2008 at 10:30 AM before Judge Denise L. Cote.). Bail cont'd. (Court Reporter Tom Murray) (ja) (Entered: 01/22/2008)
01/08/2008		Change of Not Guilty Plea to Guilty Plea as to James Ciccone (1) Count 1. (ja) (Entered: 01/22/2008)
01/08/2008		Minute Entry for proceedings held before Judge Denise L. Cote: Plea entered by James Ciccone (1) Guilty as to Count 1. (Court Reporter Tom Murray) (ja) (Entered: 01/22/2008)
01/08/2008		Order of Referral to Probation for Presentence Investigation and Report as to James Ciccone. (Signed by Judge Denise L. Cote on 1/8/08)(ja) (Entered: 01/22/2008)
02/28/2008	<u>9</u>	ORDER as to James Ciccone. Ordered that the sentence date previously scheduled for 4/11/08 is adjourned to 5/8/08 @ 11:30am. There shall be no further adjournment. It is further ordered that deft's sentencing submissions shall be due 4/25 and the govt's response shall be due 5/2 (Signed by Judge Denise L. Cote on 2/28/08)(pr) (Entered: 02/28/2008)
02/28/2008		Set/Reset Deadlines/Hearings as to James Ciccone:Deft's sentencing submissions by 4/25/2008. Govt's Responses due by 5/2/2008 Sentencing set for 5/8/2008 at 11:30 AM before Judge Denise L. Cote.. (pr) (Entered: 02/28/2008)

03/13/2008	<u>10</u>	TRANSCRIPT of Proceedings as to James Ciccone held on 01/08/2007 before Judge Denise L. Cote. (ama) (Entered: 03/13/2008)
04/25/2008	<u>11</u>	FILING ERROR - ELECTRONIC FILING FOR NON-ECF DOCUMENT - SENTENCING MEMORANDUM(LETTER) by James Ciccone. (Villanueva, Gary) Modified on 5/6/2008 (KA). (Entered: 04/26/2008)
05/06/2008		***NOTE TO ATTORNEY THAT THE ATTEMPTED FILING OF Document No. <u>11</u> as to Defendant(s) James Ciccone: HAS BEEN REJECTED. Note to Attorney Gary Villanueva : Other than letters filed under a cover marked Sentencing Memorandum, THE CLERK'S OFFICE DOES NOT ACCEPT LETTERS FOR FILING either through ECF or otherwise, except where the judge has ordered that a particular letter be docketed. Letters may be sent directly to a judge. (KA) (Entered: 05/06/2008)
05/07/2008	<u>12</u>	SENTENCING MEMORANDUM by James Ciccone. (Gray, Gail) (Entered: 05/07/2008)
05/08/2008	<u>13</u>	ORDER OF FORFEITURE as to James Ciccone. (see the attached order for the full text) (Signed by Judge Denise L. Cote on 5/8/08)(pr) (Entered: 05/08/2008)
05/08/2008		Minute Entry for proceedings held before Judge Denise L. Cote:Sentencing held on 5/8/2008 for James Ciccone (1) Count 1. (pr) (Entered: 05/08/2008)
05/08/2008		DISMISSAL OF COUNTS on Government Motion as to James Ciccone (1) Count 2.. (pr) (Entered: 05/08/2008)
05/08/2008	<u>14</u>	JUDGMENT as to James Ciccone (1), Count(s) 1, 5 months imprisonment. 3 years supervised release with supervision. \$100.00 special assessment. \$31,347.98 restitution; Count(s) 2, Dismissed(see the attached J&C for the full text) (Signed by Judge Denise L. Cote on 5/8/08)(pr) (Entered: 05/08/2008)
05/08/2008		Judgment entered in money judgment book as #08,0784 as to James Ciccone in the amount of \$ 31,447.98, re: <u>14</u> Judgment. (dt) (Entered: 05/13/2008)
05/15/2008	<u>16</u>	NOTICE OF APPEAL by James Ciccone from <u>14</u> Judgment. Copies sent to A.U.S.A. (tp) (Entered: 05/23/2008)
05/15/2008		Appeal Remark as to James Ciccone re: <u>16</u> Notice of Appeal - Final Judgment. \$455.00 APPEAL FEE DUE. (tp) (Entered: 05/23/2008)
05/23/2008		Transmission of Notice of Appeal and Certified Copy of Docket Sheet as to James Ciccone to US Court of Appeals re: <u>16</u> Notice of Appeal - Final Judgment. (tp) (Entered: 05/23/2008)
05/29/2008	<u>17</u>	Request To Proceed In Forma Pauperis On Appeal. Document filed by James Ciccone. (bw) (Entered: 05/30/2008)
06/04/2008	<u>18</u>	TRANSCRIPT of Proceedings as to James Ciccone held on 5/08/08 before Judge Denise L. Cote. (ama) (Entered: 06/04/2008)
06/05/2008		MEMO ENDORSEMENT as to James Ciccone on re: <u>17</u> Request To Proceed In Forma Pauperis On Appeal, filed by James Ciccone. ENDORSEMENT: Granted. (Signed by Judge Denise L. Cote on 6/2/08) [*** NOTE: See document #17 ***](bw) (Entered: 06/12/2008)
06/18/2008	<u>19</u>	MOTION Emergency Motion for a Stay of Execution of a Sentence of Five Months imprisonment and/or bail pending appeal. Document filed by James Ciccone. (jw) (Entered: 06/19/2008)
06/19/2008	<u>20</u>	MEMORANDUM OPINION AND ORDER denying re: <u>19</u> MOTION Emergency motion for a Stay of Execution of a Sentence of Five Months imprisonment and/or bail pending appeal. James Ciccone's June 18, 2008 motion for a reply of surrender is denied. (Signed by Judge Denise L. Cote on 6/19/08) (jw) (Entered: 06/19/2008)